IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

Writ Petition Lodging No.2905 of 2004

D.N.Desai and ors ..Petitioners
vs
The Union of India and ors..Respondents

Mr.D.N.Desai petitioner in person
Mr. Suresh Kumar with Kiran Kandpile for respondent no.l
Mr.A.S.Doctor i/b Kanga and Co for respondent no.2

CORAM: A.P.SHAH & S.J.VAZIFDAR JJ.

Dated 4.4.2005

P.C:

l. We have heard Mr.D.N.Desai who is appearing in person and Mr. A.S.Doctor appearing for respondent no. 2. The petitioner is aggrieved by the decision of the respondent no. 2- Institute of Chartered Accountants of India (for short ICAI) dated l7.9.2004 holding that respondent nos. 3 to 7 are not guilty of professional or other misconduct as alleged by the petitioner. The petitioner is a partner of M/s Kanubhai & Co of which respondent nos. 3 to 7 are other partners. The petitioner had lodged three complaints against respondent nos. 3 to 7 to the ICAI alleging professional misconduct on their part. In Writ Petition No.l387 of 2002 this court vide order dated 27.2.2004 directed the respondent no. 2 to

dispose of the said complaints against respondent nos. 3 to 7 in accordance with law as expeditiously as possible and in no case later than six months from the date of the order.

2. Pursuant to the said order the Council of respondent no. 2 considered the complaints, written statements of the respective respondents, rejoinder filed by the petitioner as also comments of respective respondents, in accordance with the provisions of regulation l2(ll) of the Chartered Accountants Regulation, l988 in its meetings held on 3l.8.2004, 2.9.2004, and l5/l6.9.2004, and the Council came to a prima facie conclusion that respondent nos. 3 to 7 are not guilty of any professional misconduct or other misconduct.

3. Section 2l of the Act provides for forming of prima facie opinion of the Council regarding member of the Institute against whom a complaint has been received under section 2l of the Act. Regulation l2 lays down procedure to be followed before forming such prima facie opinion and other steps relating to inquiry to be held. On going through the records we are satisfied that the procedure as prescribed by the regulation has been duly followed and prima facie finding has been recorded that no

case of misconduct has been made out against respondent nos 3 to 7. We have also gone through the relevant record and we are of the opinion that this is not a fit case for interference under Article 226 of the Constitution of India.

Petition is accordingly dismissed.